

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

TAYLOR JONES

versus

CITY OF BROUSSARD

* **CIVIL ACTION NO.** _____
*
*
* **SECTION “__”**
*
* **JUDGE** _____
*
* **MAGISTRATE** _____
*

NOTICE OF REMOVAL

NOW INTO COURT, pursuant to 28 U.S.C. §§ 1441 and 1446, comes Defendant in the above-captioned State-court lawsuit, City of Broussard, through undersigned counsel, and hereby removes to this Court the action styled *Taylor Jones v. City of Broussard*, bearing Case Number 20215323, Division "I", on the docket of the 15th Judicial District Court for the Parish of Lafayette, State of Louisiana, and in support of this removal respectfully represent as follows:

1.

On October 13, 2021, Taylor Jones (“Plaintiff”) filed his “Petition for Damages” in the 15th Judicial District Court for the Parish of Lafayette, State of Louisiana. The face of Jones’ Petition for Damages does not reference federal law, and in fact specifically cites to only Louisiana Rev. Stat. § 23:332 (Louisiana Employment Discrimination Law, “LEDL”), such that there was no federal subject matter jurisdiction over the case based on the Petition. *See Mumfrey v. CVS Pharmacy, Inc.*, 719 F.3d 392, 399 (5th Cir. 2013) (recognizing that the thirty-day removal period is triggered only where the initial pleading affirmatively reveals on its face that federal subject matter jurisdiction exists.) Here, the Petition did not affirmatively reveal on its face that federal subject matter jurisdiction exists.

2.

On December 6, 2021, the City filed an Exception of No Cause of Action.

3.

On February 22, 2022, Jones filed his “Pretrial Memorandum in Opposition of Exception No Cause of Action” in response to the City’s Exception. In his Opposition, for the first time in this case, Jones repeatedly cites to Federal law, specifically Title VII and 42 U.S.C. § 1983 as the legal basis for his claims against the City. This is the first pleading or other paper in which Jones asserts Federal law as grounds for his relief. 28 U.S.C. §1446(b)(3).

4.

Defendants received Jones’ Memorandum in Opposition to the City’s Exception of No Cause of Action via email service on February 22, 2022. Consequently, this removal is timely under 28 U.S.C. § 1446(b)(3) as it is being filed within thirty (30) days after receipt by Defendants of an initial copy of the pleading, motion, or other paper from which it may first be ascertained that the case is one which has become removable. *Morgan v. Huntington Ingalls, Inc.*, 879 F.3d 602, 609-612 (5th Cir. 2018); *Mumfrey*, 719 F.3d at 400; *Addo v. Globe Life & Acc. Ins. Co.*, 230 F.3d 759, 761-62 (5th Cir. 2000); *Dempster v. Lamorak Ins. Co.*, 435 F.Supp. 3d 708, 721-22 (E.D. La 2020); *Cisneros v. DAMK, Inc.*, No. 7:13-cv-556, 2014 WL 258755, at *4 (S.D. Tex. 2014); *Maheshwari v. University of Texas-Pan American*, 460 F.Supp.2d 808, 810-12 (S.D. Tex. 2006); *see also* 14C Charles Allan Wright & Arthur R. Miller, Federal Practice and Procedure §3731 (4th Ed. 2019).

**This Court has Original Subject Matter Jurisdiction Because
Jones Brings Claims Under Title VII and 42 U.S.C. § 1983.**

5.

This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1337 and is one which may be removed to the Court by the Defendant pursuant to 28 U.S.C. § 1441 in that it is a civil action arising under the laws of the United States.

6.

Taylor Jones asserts that the City of Broussard violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and 42 U.S.C. § 1983 based on the arguments and law first raised in his Opposition to the City's Exception of No Cause of Action.

7.

These federal claims establish original federal subject matter jurisdiction under 28 U.S.C. § 1331.

Removal Procedures

8.

In accordance with 28 U.S.C. § 1446(a), certified copies of all process, pleadings, and orders served upon the Defendants in the state court are attached as Exhibit "A" *in globo*.

9.

In accordance with 28 U.S.C. § 1446(d), Defendants have provided notice to Plaintiff, through delivery of a copy of this Notice of Removal to his counsel of record, and to the Clerk of Court for the 15th Judicial District Court for the Parish of Lafayette, State of Louisiana, through filing into the record of this action therein a copy of this Notice of Removal.

10.

In accordance with 28 U.S.C. § 1447(b), the Defendants will also file into the record of this Court within fourteen (14) days of the removal, copies of all pleadings filed into the record in state court, a copy of the return of service of process (as may be filed therein), and a list of all parties remaining in this action.

WHEREFORE, the Defendants pray that this Action proceed no further in State Court and, instead, it be removed from the 15th Judicial District Court for the Parish of Lafayette, State of Louisiana, to the United States District Court for the Western District of Louisiana, and that this Court assume full jurisdiction over the causes as provided by law for further proceedings and disposition.

Respectfully submitted:

BREAZEALE, SACHSE & WILSON, L.L.P.

By: /s/ Eve B. Masinter
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Attorneys for City of Broussard

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 25, 2022, I forwarded a copy of the above and foregoing pleading to all known counsel of record by email and by depositing a copy thereof, postage prepaid, in the United States mail, as follows:

Lee C. Durio
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leedurio@duriolaw.com

/s/ Eve B. Masinter _____
Eve B. Masinter